AN

ESSAY

ON

Civil Government:

Treating ſummarily

Of its Neceſſity, Original, Diſſolution, Forms, and Properties.

Nullius addictus jurare in verba Magiſtri.

HOR.

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BRITISH MUSEUM

THE

PREFACE.

IT *may be expected that the Writer of the following Eſſay ſhould apologize for the Publication of it; ſince there have been many and great Authors on the ſame Subject. He obſerves the ſame Conduct towards the laſt of theſe, as they did towards the firſt; and might*

therefore plead their Example as his Excuſe. But he thinks himſelf better juſtified by Reaſon: for the more any Subject is examined the better it will be underſtood; and the true Underſtanding of the Nature of Government he takes to be of great Uſe and Importance, ſince both Magiſtrates and People are like to act moſt regularly when they have the cleareſt Senſe of their Civil Obligations. And certainly this Knowledge was never more neceſſary than in the preſent Age: for when Subjects are required by Law to ſwear that a Government is Rightful, they muſt inform themſelves from whence a Right to Authority proceeds, or elſe they act by an implicite Faith. He is fully perſuaded, that what he advances tends to confirm Men in their Opinion of the Right of our preſent happy Eſtabliſhment. And he eſteems it al-

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most an infallible Mark, that Rulers hold their Authority by a just Tenure, when they suffer the general Nature of that Tenure to be tried and examined. At the same Time he imagines it no ill Compliment to the Government, when, by delivering his Opinion on that Subject with Confidence and without Reserve, he gives an Instance of the Liberty we at present enjoy under it.

As the reading Sir William Temple's *Essay on Government first inspired him with the Design of writing this Treatise, so it is the only Book which he has cited or consulted on the Occasion. What he offers is entirely the Result of his own Judgment, formed on Recollection and Consideration of what he had read or heard compared with his own Thoughts on the Subject. For he chose rather to be guided*

guided by Reaſon than Authority, and by his own Reaſon than another Man's. And indeed he thinks, that (ſtrictly ſpeaking) there is no ſuch thing as Authority in Matters of Judgment: For the Nature of Truth is not to be altered by Opinion; and a Propoſition is never the more or leſs true, becauſe it has been aſſerted or denied by Eminent Men: Their Opinions can no farther gain Aſſent, than as they are ſupported with good Reaſons; nor can their Reaſons paſs for good, any further than as they are agreeable to the Sentiments of him that examines them: ſo that in the Concluſion it will be found, that no Man can judge for another, but that every Man muſt judge for himſelf. If any one ſay, I will be of ſuch an Opinion, becauſe another is, he deceives himſelf; for though he may indeed act as if he were of that Opi-

Opinion, yet he cannot be really ſo without an inward Conviction; Opinion being the Determination of the Underſtanding, and not of the Will. It were therefore to be wiſhed, that Men would not give themſelves up blindly to be led by others in Subjects of the greateſt Importance; but that they would exert their natural Liberty and Talents to think and examine for themſelves; it being impoſſible, unleſs they take this Trouble, ever to be aſſured of the Truth: for Truth is a beautiful but coy Miſtreſs, that will not be won without being wooed; but that yields her ſelf up naked to the ardent purſuit of her Lover, and rewards his Diligence and Conſtancy with unſpeakable Pleaſure and Delight.

But to return. As our Writer is of opinion that nothing ought to have any weight unleſs ſupported by Reaſon, although it be advanced by the great-

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eſt Author; ſo he flatters himſelf, that nothing which appears reaſonable will be rejected, when it comes from the meaneſt. He is not ſo vain as to expect, that others ſhould pay an implicit Faith to him, which he has denied to much wiſer Men. And is ſo far from thinking himſelf infallible, that he will not be aſhamed to renounce any of his own Opinions on better Information. If what he writes is of any ſervice to the Publick, in giving Men a clearer and more diſtinct View of their Civil Duties, he has gained his End: If it is not, he has this Conſolation, that he is not the firſt who has wrote a Pamphlet in vain.

BRITISH MUSEUM

OF

OF THE
Neceſſity of Government.

NO Man who lives under a Civil Government, can poſſibly doubt of the Neceſſity of it; ſince to this he owes the Security of all the Temporal Bleſſings which he enjoys. It is the Guardian Power, that repels the Attacks of Vice and Injury; that ſhields his Poſſeſſions from Rapine, and his Perſon from Violence; that watches over him, both when he goeth out and when he returneth home, when he ſleeps and when he wakes. Were Men to direct their Actions by the Dictates of Reaſon, they would want no other Ruler; but Reaſon is ſo faint, and Paſſion ſo prevalent, that they muſt be held with Bit and Bridle, leſt they fall upon each other. And we are fatally convinced by Experience, that even the Sanction of Laws is often too weak a Reſtraint to keep them within the Bounds

of Duty. Suppoſe therefore Civil Authority once baniſh'd from the World, and you have before you a Scene of the greateſt Confuſion and Miſery, ſcarce to be parallelled by any Repreſentations Poets or Divines have given us of Hell; Men inſtead of being beneficial to each other, ſunk beneath the degree of Brute Creatures, and preying on their own Species: inſtead of cultivating their Minds with Religion, Learning, and Philoſophy, only ſtudying to gratify their Humour and Appetites, which would hurry them on to the moſt deteſtable Crimes. This therefore is certainly a true Maxim, that the Worſt Government is better than None.

Of this all Mankind have been ſo ſenſible, that there never was Age or Country without ſome ſort of Civil Authority. It is a Principle as univerſal as that of Religion: For it was not more evident to Men from Nature that the World could not exiſt without a God, than that the Peace of it could not be maintained without an earthly Ruler. If it was not for this Perſuaſion, it is ſcarce credible, that Mankind would have ever paid Submiſſion to the Magiſtrate; ſince all Government is an Infringement on their Natural Equality, and a Reſtraint on their Natural Liberty: but they found it neceſſary to yield their Perſons to Subjection, to preſerve them from Violence; and to reſign their original Right to all things, to enjoy ſome few in Peace and Security.

OF THE

Original of Government.

ALTHOUGH the Uſe and Neceſſity of Government is obvious to all Men, yet no one can tell how it firſt began. This is a Particular which lies concealed in the depth of Ages, and in which Hiſtory and Tradition are ſilent. In the firſt Memorials that are extant of Mankind, ſince their Increaſe after the Flood, they all appear formed into Civil Societies; but no Account is given how they came to be ſo. In this therefore every one muſt be left to his own Conjecture: and (as in other Speculations) he that can ſupport his Opinion with the moſt plauſible Reaſons, muſt paſs for the moſt knowing Man. It ſeems moſt probable to me, that Civil Government owes its Original to Paternal Authority, however it might afterwards be improved by Contract, or enlarged by Conqueſt.

I am the rather inclined to this Opinion, becauſe in the moſt ancient times, Mankind are generally found under abſolute Kingly Government; which Form perhaps would

not have ſo univerſally prevailed, had there actually been great Numbers equally concerned in the firſt Formation of a State, and every one of them at liberty to propoſe his own Scheme. Thoſe Governments, of whoſe beginning we have certain Accounts (as of *Venice*, *Swiſſerland*, *Holland*, and others) can give us no light in the preſent Queſtion, becauſe we find them compoſed of Perſons, who were before Members of another State: 'For, as Sir *William Temple* obſerves, we no where read where the 'Orders of any Government have been 'agreed on by mutual Contract, by great 'Numbers of Men meeting together in a 'Natural State.' And he judiciouſly adds, 'That this Account which ſome give of the 'Original of Government, ſeems calculated for that given by old Poets of the Original of Man; whom they raiſe out of 'the Ground by great Numbers at a time in 'perfect Stature and Strength. Whereas if 'we deduce the Races of Mankind in the 'ſeveral Parts of the World (as we muſt) 'from Generation, and at the ſame time 'imagine Numbers of them meeting to 'agree on any Civil Conſtitutions, they 'muſt aſſemble not as ſo many ſingle Heads; 'but as ſo many Heads of Families, and 'conſequently as Perſons who have already 'ſome Authority over ſuch Numbers as 'their Families are compoſed of.' And from this

this Authority, may, perhaps, be deduced the trueſt Original of Civil Government; which, by the means of ſucceeding Agreements and Accidents, may have branched into the various ſorts of it, which have ſince appeared in the World.

But to deliver my Opinion more particularly in this Point. We may ſuppoſe that in the firſt Ages after the Flood, a Father not only governed his Children while they were unable to govern themſelves; but when they arrived at Years of Diſcretion, aſſumed an Authority of a different kind over them and their Poſterity, for the maintenance of Peace and Order. And that this Authority met with a tacite Aſſent; by ſome it was readily ſubmitted to from a Senſe of Duty and Gratitude, by others, from an Opinion of his greater Wiſdom and Experience: or if any One offered to revolt from it, he was eaſily reſtrained by the Concurrence of the Reſt to ſupport it. When any Son ſeparated from his Father's Houſe, and ſought out a diſtant Habitation, from a Subject he became a Prince, and exerciſed the ſame Juriſdiction over his own Family that he had ſubmitted to in his Father's: and when he died, left it to one of his Sons; or perhaps the Eldeſt (as of greateſt Riches and Experience) generally aſſumed it. This was the firſt and moſt natural Government, under which Families

grew

grew into Kingdoms. And this Account is the more probable, as it ſeems favoured by that given in Scripture of the *Iſraelites*, *Iſhmaelites*, *Edomites*, *Moabites*, and ſeveral other Nations. And from this Fountain we may derive thoſe many Petit Royalties, which were found in *Gaul*, *Britain*, and other barbarous Nations, before they were ſubdued by the *Romans*; and which ſtill ſubſiſt among the uncultivated People of *Africa* and *America*.

When the Father or other Head of the Family was by Nature incapable to govern, it is to be ſuppoſed another aſſumed his Province, or was elected to it. Or where he exerciſed his Government with Rigour or Injuſtice, it is probable, the Family thought of Expedients to reſtrain him, and invented Rules by which he ſhould govern with more Moderation for the future. Or elſe they entirely withdrew their Obedience to him, and transferred it to another of greater Wiſdom, Valour, or Juſtice: For as the Opinion of theſe or the like Qualities firſt drew a voluntary Submiſſion to Fathers of Families, ſo where they were found to fail in them, it gave it to others: And thus ſometimes a Superiority in Nature acquired a Man a Superiority in the State.

Another Way by which Government might begin (or rather by which Paternal Government might be altered and improved)

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is expreſs Contract: For as Mankind increaſed, Pride, Luſt, and Avarice increaſed with them, and diſpoſed them to Violence and Injuſtice: And although Paternal Rule was ſufficient to reſtrain the Members of the ſame Family from mutual Injuries, yet was it not ſufficient to protect them againſt the Injuries of one more numerous and powerful. Therefore the weaker Families, being ſenſible of the Dangers to which they were expoſed, might agree together to ſubmit the Direction of their Affairs to one Common Authority; that ſo by a Union of Strength and Counſel they might be a Match for their Neighbours; each Head of a Family reſigning his particular Dominion to ſhare in the Common Safety and Protection. Such a Government begun by the Agreement, and deviſed by the Policy of Man, may properly be called Artificial, in contradiſtinction to that Natural Paternal Sway, to which Men were uſed from their Cradles, and to which they ſucked in Obedience with their Milk.

A third Original of Government (or which may more properly be called an Acceſſion to it) was Conqueſt; when any Family or Nation took captive part of another, or ſubdued the whole. In which Caſe the Vanquiſhed either became Slaves, and were treated at the Pleaſure of the

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Conquerors; or elſe were admitted to the Condition of Subjects, by enjoying the Benefit and Protection of Law.

Theſe are the Sources from which probably all Governments did originally flow: But it is ſcarce credible, that any are now ſubſiſting exactly on the ſame Foundations, on which they were at firſt eſtabliſhed: Changes in State are almoſt as common as thoſe in the Seaſons, or thoſe in the Tempers of Mens Bodies, or Diſpoſition of their Minds: And every Age furniſhes us with Inſtances, where the Weakneſs or Tyranny of Magiſtrates, or the Intereſt or Ambition of Subjects, have been the Subverſion of Old, and the Beginning of New Conſtitutions.

And here it is not improper to remark, that although we have aſſigned ſome other Principles of the Original of Government, yet it is Contract alone that is the only juſt Foundation of it, and the Cement by which the conſtituent Parts of it are united. For though Paternity or Conqueſt may in Fact have given Occaſion and Opportunity to exerciſe a Civil Authority, yet they are far from giving a Right to it: That can be derived only from the Conſent of the Party governed; for no Man can claim either a Divine or Natural Right to controul another; ſince God hath neither expreſly declared by Revelation, or by any means

marked

marked out or deſigned any particular Perſons for Governours, but hath made all Men by Nature Equal.

The Power which a Parent is intitled to, is very different from that of a Magiſtrate, and falls far ſhort of it in its Nature, Duration, and Extent. The Care and Cuſtody of his Child continues while he is not capable of taking care of himſelf, but ceaſes when he is: He may then claim a Reverence from him, but cannot exact Obedience: He has a right during his Childhood to inform his Mind, and direct his Actions; but never has any Power over his Life, his Liberty, or Poſſeſſions; which are the proper Objects of Civil Authority. And it is abſurd to ſay that the Act of Generation can give him any ſuch Power, for then there would be as many Sovereigns as Fathers; nor could the Mother be juſtly excluded from her ſhare in the Government.

If a Parent has no Plea to ſuch an Authority, much leſs has a Conqueror: for no Man has a Right to govern another becauſe he is ſtronger. If Force were any Title, the Brute Creation might put in a juſt Claim to the Dominion of Mankind. If the Conqueror's Cauſe is unjuſt, he has violated the Laws of Nature, and therefore the conquered Party is under no Obligation to Submiſſion, but may lay hold of the

firſt Opportunity to revenge himſelf, and to repay Force with Force. If the Conqueror's Cauſe is juſt, he has then a Power over the conquered Party, exceeding a legal Authority; for the Laſt being the Aggreſſor, he has a Right to uſe him as he pleaſes; he is his Slave and not his Subject.

Are then no Governments to be eſteemed Lawful but what were firſt begun by Conſent of Magiſtrate and People? yes certainly: For although in the moſt regular Formation of a State the Conſent ought to precede the Exerciſe of the Authority, yet an Authority at firſt unwarrantably aſſumed may be confirmed by a ſubſequent Conſent. But till that is obtained, the Parent, Conqueror, or whoever elſe aſſumes it, is rather to be regarded as an Invader of Mens Liberties than a legal Magiſtrate; for from Conſent alone ariſes the mutual Obligation of Protection and Submiſſion. And it muſt be voluntary and not extorted, the laſt being in Moral Eſtimation no Conſent at all.

But it is not neceſſary that it ſhould be in expreſs Terms, as by ſwearing Allegiance or the like: For as a Tacit Deference to Authority for any length of time may be conſtrued to amount to a Conſent; ſo there are many Actions, which have always (and that very rationally) been reputed to im-

imply it. As if a Man voluntarily takes any Commiſſion under a Government, by that he acknowledges and conſents to the Authority under which he acts. So if a Stranger comes to live within the Juriſdiction of a State, he by that conſents to be ſubject to its Laws during his reſidence in it. And many Inſtances of the like Nature might be produced.

It may be asked, if Men cannot be ſubjected to Civil Authority without their Conſent, how comes every Perſon that is born in a State under an Obligation of Submiſſion, though he never conſented to be governed in that manner? It may be anſwered, although he never actually conſented, yet his Conſent is involved in that of the Society: For as in the beginning of every State there muſt be a Contract (if not Expreſs, at leaſt Implied) ſo not only the Parties that made it, but alſo their Poſterity are bound by it; becauſe by ſuch Contract they became one Political Body, which continues the ſame, and cannot be altered by Succeſſion of Time or Individuals; but every Perſon, whether born ſooner or later after the Contract, is equally a Member of the Body that conſented; and ſo under an equal Obligation to perform it, until the Bond of the Civil Society is diſſolved. And how that may be, I ſhall now endeavour to ſhew.

OF THE

Diſſolution of Government.

IN eſtabliſhing a Civil Society, the Magiſtrate and People are the Parties that enter into Contract, the Firſt to protect, the Other to obey: from which neither can be diſcharged without Conſent of the other. The Magiſtrate cannot reſign his Office without Conſent of the People; but if they conſent to his Reſignation, the Civil Obligation is diſſolved.

When the Magiſtrate has once undertaken the Office, if he afterwards refuſes to exerciſe it, he has violated his Agreement, and the People may proceed to a new Formation of their State.

The Conſequence is the ſame, where the Magiſtrate abuſes the Authority committed to him, or uſurps one that was not: The People are then at liberty to redreſs themſelves, to diſplace the Magiſtrate, and new-model their Government.

I am ſenſible there are not a few, who maintain that the greateſt Tyrant is to be ſub-

ſubmitted to, and that Reſiſtance is in no Caſe lawful, and pretend a Divine Command for their Opinion. But ſure, if any Concluſion is to be drawn from the Paſſages of Scripture they chiefly rely on, it is rather againſt themſelves. For if Submiſſion is there taught to good Magiſtrates, ſhall we therefore conclude it to be due to bad? May it not rather be inferred that the unjuſt Magiſtrate is to be reſiſted, ſince his Juſtice is there given as the Reaſon of our Obedience? Rulers are there ſaid to be, not a terror to good Works, but to the Evil; Miniſters of God for Good; Revengers on him that doth Evil; and to be ſent for the Puniſhment of Evil Doers, and for the Praiſe of them that do well. Theſe are ſuch Magiſtrates as anſwer the Ends of Government; and are therefore to be obeyed: But ſhall thoſe who violate them expect the ſame Meaſure of Obedience? Are they fit to correct Offences in others, who indulge themſelves in the Greateſt? Or are they to be eſteemed as Perſons of a ſacred Character, when they act as the avowed Enemies of Mankind? Wicked Magiſtrates are ſometimes permitted by Heaven for the Puniſhment of a ſinful Nation, and Unhappy are the People that are in ſuch a Caſe! But their Condition is altogether deſperate, who think themſelves obliged in Conſcience to adore

adore the Tyrant, and kiſs the Rod of their Affliction. It is indeed the part of a Chriſtian not to ſeek Revenge, but to ſuffer Injuries with Patience; but this Duty, which relates to him as a Private Man, was never interpreted to debar him from purſuing his Civil Rights; and I know no Action he can perform more generous as a Man, or more charitable as a Chriſtian, than to ſuccour his injured Country and Neighbour, and oppoſe himſelf to a Torrent of Injuſtice and Oppreſſion, which threatens to overwhelm them. To what purpoſe are ſolemn Oaths and Engagements (thoſe Tenures by which Magiſtrates profeſs to hold their Authority) if they may be cancelled at their Pleaſure? To what purpoſe are Laws, if they are not obliged to obſerve them? And what Means are left to compel their Obſervance of them, but Force? For ſince they are placed beyond the reach of Ordinary Puniſhment, this is the only Appeal the People can make to Heaven for that Juſtice, which is denied them upon Earth. We ſee what Opinion the *Romans* had in this matter: they all thought it meritorious to expel a *Tarquin*, and not a few even to aſſaſſinate a *Cæſar*. And I cannot but obſerve, that thoſe, who contend for ſuch a blind and abject Submiſſion to the Magiſtrate, though they ſeem to be his beſt Friends, are in effect his greateſt

greateſt Enemies, who delude him to his own Deſtruction; for both Reaſon and Nature plead ſo ſtrongly for Self-defence, that there ſcarce ever was an Inſtance of a general Oppreſſion, but the People have aſſerted their Rights; and the Magiſtrate, who has been flattered into an Opinion of a Power as unlimited as a God, has at laſt with Confuſion been brought to know himſelf to be but Man.

But although the People have a Right to exact the Performance of the Contract, it is not my Deſign to advance, that they may take up Arms whenever the Magiſtrate does amiſs. Perſonal Virtues adorn the Character of a Prince, and his Example has an Influence on the Behaviour of the Subject: yet, for Tranſgreſſions of a private Nature, he is accountable to God alone; for it is in publick Actions only that he is likewiſe accountable to the People, as they are to him on Tranſgreſſion of the Law. And in his Male-Adminiſtration of the Publick there are many Caſes, where it is neither Equitable nor Prudent for the People to have recourſe to Arms. Whatever falſe Steps a Magiſtrate makes through Error, Ignorance, or Evil Counſel, ought to meet with the ſame favourable Interpretation as in the Conduct of a private Perſon: for by being advanced in Station, he is not exempt from the Common Infirmities of a

Man; his Capacity is not enlarged with his Authority, nor his Judgment with his Power of Judging. And even where the Magiſtrate wilfully violates his Contract, the Nature of the Grievance ought to be conſidered: as whether it be Publick or Private; and whether it be general and fatal in its Conſequence: for it is as in a Populous City, where if a ſingle Perſon comes to a very extraordinary End, it occaſions only ſome little Surpriſe amongſt the Inhabitants; but if he dies of an Infectious Diſtemper, the Conſternation is univerſal, and Prudence puts every one on Methods to ſecure himſelf. But in all Caſes of Miſmanagements whatſoever, this Rule ſhould be obſerved by the People, before they purſue violent Counſels; they ſhould fairly repreſent them to the Magiſtrate; for if they can be relieved that Way, it would be as Indiſcreet to uſe Force, as to cut off a wounded Member, which might be cured by common and gentle Applications. And even where Repreſentations fail, it ought always to be conſider'd, whether the State will ſuffer more by the Continuance of the Grievance, or by the Convulſions it muſt undergo in the Attempt to redreſs it: For as the Publick Good of the Society was the End for which it was eſtabliſh'd, That ought maturely to be weighed, and which way ſoever it inclines, that Way ought every good Subject to direct his Actions. Since

Since therefore it is not allowable to reſiſt the Magiſtrate in all Caſes of Miſmanagement, it may be demanded what thoſe Occaſions are in which it is lawful? It may be replied in general, that they will ſufficiently diſcover themſelves: for when the whole Body of the People complain, it is a ſign of a general ill Treatment; and when every Individual is ſenſible of the Injury, it may be concluded to be very great. But a more particular Anſwer may be given to this Queſtion by conſidering the End of Government; which is, to protect Men in the peaceable Enjoyment of their Lives, their Liberty, their Poſſeſſions, and (as they are rational Beings) their Religion: Therefore when any of theſe are notoriouſly invaded, it is not only Juſt, but Honourable, and becoming the Dignity of Human Nature, to aſſert and defend them. And it is alſo laudable to maintain with the utmoſt hazard thoſe Fundamental Agreements on which the whole Frame of the Conſtitution or Politick Building was at firſt raiſed.

Having mentioned ſeveral inward Cauſes of the Diſſolution of a Civil State, as Reſignation, Abdication, and Male-Adminiſtration; I now come to another, which is External, and this is Conqueſt: For when Magiſtrate and People, after their joint Endeavours to defend themſelves, are ſo re-

duced by a ſuperiour Force, that the one can no longer grant Protection, nor the Other yield Obedience, the Contract between them is diſſolved; becauſe the Terms of it are become Impoſſible: And it is not only Convenient, but Lawful for them to enter into a new Contract with the Conqueror, to ſecure themſelves againſt the Arbitrary Uſe of a Power they cannot controul.

But is every Conqueror who can arrive at ſuch a Degree of Power, intitled to Dominion? and every Ambitious and Rebellious Subject, who can uſurp it, to be ſubmitted to? I think not. For as there is a wide difference between a juſt Conqueſt and an unjuſt one, ſo is there between a juſt Conqueſt and an Uſurpation. A foreign Conqueror is under no Agreement with the State, and therefore may act againſt it every thing that is permitted by the Law of Nature: But if a Member of it, who is Party to the Compact on which it ſubſiſts, breaks through that Compact, by diſturbing the Peace of it, and attempting on the Liberties of his Fellow-Subjects, they ought to manifeſt a generous Indignation againſt him, and oppoſe him with the laſt hazard of Life and Fortune. And if Succeſs ſhould crown his wicked Enterpriſe, and he ſhould by Force extort their Acknowledgment of his Authority, I can by no

no means think it ſuperſedes their prior Obligation: but they ought to lay hold of the firſt Opportunity to ſhake off his Yoak, and reſtore their former Conſtitution: For if ſuch Monſters ſhould ever be permitted to be ſafe, it would give encouragement to their ambitious Attempts, and would be rewarding the blackeſt Villany with the moſt glorious Marks of Dignity and Honour.

OF THE

Forms of Government.

AS every Animal is different from another in Shape and Feature, ſo is each Government diſtinguiſhed by its Form and Conſtitution.

The Form of any Government is to be derived from the Agreement of thoſe, who firſt compoſed the Society: for as Men could not become a Body Politick without their own Conſent; ſo when they had once conſented to be governed, it was neceſſary they ſhould alſo agree in what manner the Government ſhould be adminiſtred.

For I am far from being of Opinion with thoſe, who think any Form of Government of Divine Inſtitution, or more agreeable to the Deſigns of Providence than another. God has indeed manifeſted his Will to Men, that there ſhould be Civil Authority in the World, by making it evident from Reaſon, that their Safety and Happineſs could not be procured without it; and in this ſenſe Government in general is called in Scripture the Ordinance of God. But as theſe Neceſ-

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ſary Ends may be obtained as well under one Form of Government as another, he hath left that to Man's own Choice; and in this Senſe it is there alſo called the Ordinance of Man.

As Men are ſeldom unanimous in the Means to attain their End, ſo their Difference in Opinion, in relation to Government, has produced Variety of Forms of it in the World. To enumerate them would be to recapitulate the Hiſtory of the whole Earth. But they may in general be reduced to one of theſe Heads; either the Civil Authority is delegated to one or more, or elſe it is ſtill reſerved to the whole Body of the People. Whence ariſes the known Diſtinction of Government into Monarchy, Ariſtocracy, and Democracy.

It has long been a Queſtion, which is the beſt Form of Government, and a Queſtion difficult to be decided: for, as Sir *William Temple* obſerves, they have all their ſtrong and their weak Sides. As there is no Man ſo accompliſhed, but in ſome one Qualification he muſt yield to another, ſo there is no Conſtitution ſo excellent, but in ſome Part is defective; as every thing of Human Inſtitution muſt be, unleſs we can ſuppoſe Man's Underſtanding, from whence it proceeds, perfect and infallible. Monarchy hath this advantage over other Forms, that the Prince can take his Meaſures at all times

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and in all places, and ſpeedily execute them for the Good of the State: Whereas in popular Governments, there muſt be ſtated Times of Aſſembling for Conference and Debate, where Variety of Opinion may occaſion Delays dangerous in ſudden Emergencies to the Common Safety. On the other hand, the Reſolutions taken in a large Aſſembly, where Buſineſs is clearly ſtated, and judiciouſly weighed, and Conſequences maturely conſidered, are like to be grounded on wiſer Maxims, and to conduce more to the publick Advantage, than thoſe which proceed from the ſingle Opinion of a Prince, or the Advice of a few Counſellors. In a Monarchy, the Liberty of the People is not ſo well ſecured; nor in a Commonwealth, their Tranquillity: the firſt, in bad Hands, may degenerate into Oppreſſion and Tyranny; the laſt, into Faction and Anarchy. Compare Elective with Hereditary Monarchy, you will find the firſt in a few Particulars preferable, in many not comparable to the latter. It is not indeed ſubject to the Inconveniences of Non-age and other Natural Diſabilities; for it is not to be ſuppoſed that the People will chooſe a Child, an Ideot, or a Madman to rule over them: But then the Election is preceded by Cabals and Factions, attended by Animoſities and ſometimes Civil Wars: The elected King is too often partial to thoſe who promoted

his Advancement, and rigorous to thoſe that oppoſed it: If he is a Foreigner, he favours his own Country to the prejudice of that into which he is ingrafted; if a Native, he bears to the Throne his private Reſentments and Reſolutions of Revenge; or elſe, he is purſued by the Envy of thoſe, who lately remembered him their Equal, and can ill brook to ſee him their Sovereign. In an Ariſtocracy, the few inveſted with Authority, will be in conſtant competition with each other for Power; and will be more intent on inriching and aggrandizing themſelves and their Families, than on advancing the Publick Welfare; eſpecially if their Magiſtracy is for Life, or deſcends to their Poſterity; but if they are annually elected, they will perhaps be more cautious of their Conduct, knowing how ſoon they muſt be accountable for it to their Succeſſors. In a Democracy, the People would certainly purſue their own Good if they knew it; but they are generally miſ-led by Artifice and Inſinuation to miſtake it: their numerous Aſſemblies are tumultuous; and the Factions fomented in them by deſigning Men, ſometimes make them Scenes of Contention and Bloodſhed, and produce Effects little different from Civil War.

After all, we muſt agree with Sir *William Temple*, that thoſe are the beſt Governments, in which there are the beſt Gover-

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nours: for there is ſcarce any Conſtitution ſo ill contrived, but the People may live eaſy under, if it be duly obſerved; and none ſo excellent, but muſt ſuffer under an ill Adminiſtration. The Virtues of the Prince tend to the Happineſs of his Subjects; his Luxury and Ambition to their Poverty and Deſtruction. View the *Romans* under their different Forms of Government, and you will find them a flouriſhing or a miſerable People, as their Kings, Conſuls, Dictators, or Emperors, were either virtuous and wiſe, or weak and profligate Men. And I believe the ſame Remark may be verified by Inſtances from the Hiſtory of almoſt any Nation.

Whatever Conſtitution of Government may be the Beſt, every Private Man ought to be contented with that eſtabliſhed in his own Country, and to contribute his utmoſt Endeavours to ſupport it. And although he is perſuaded in his Conſcience, that it is not ſo beneficial as another Form would be, yet he ought not to attempt a Change: for it was firſt inſtituted by common Conſent, and therefore cannot be altered without it. By this common Conſent every Man was bound, and therefore any Attempt of Innovation without it, is a Violation of his Contract. Any Man is at liberty to propoſe a Reformation to thoſe in Authority, but not to introduce it by Force. As nothing

thing can be a greater Proof of Vanity or Ambition, ſo there can be no greater Offence againſt Civil Society, which is the Reaſon that the Laws of all Countries are ſo ſevere againſt Treaſon.

When I ſay a Man may propoſe a Reformation to thoſe in Authority, I would not be underſtood to maintain, that even thoſe in Authority can introduce a Change in the Form of a Conſtitution, without firſt obtaining the Conſent of the whole Body of the People, ſignified in ſome publick manner. This is that one Act in things of their own Nature indifferent, which Governours cannot perform of themſelves, but in which they muſt have recourſe to the Fountain of their Power. For although by the Neceſſity of Nature the Perſons with whom the Sovereign Authority is lodged, muſt often change, yet their Numbers ought not to be altered, or the Powers with which they are inveſted: ſo that if the Sovereign Authority was at firſt committed to one, he cannot of himſelf divide it amongſt many; or if it were at firſt divided amongſt many with ſeparate and diſtinct Powers, they cannot of themſelves either unite thoſe Powers, or exchange them. And the Reaſon is, becauſe they could not receive ſuch a Commiſſion from the People; for to ſuppoſe it, would introduce this Abſurdity, that the People, when

they inveſted them with their Original Power, at the ſame time gave them another Power deſtructive of it; which is as unnatural to conceive, as that a Man ſhould have a Power to make away with himſelf, or to change his own Shape or Complexion. This then is that Baſis on which every Conſtitution is built: That Fundamental Article, not to be changed but by general Conſent, which Governours cannot legally deſtroy, and which every Subject ſhould endeavour to preſerve ſacred and inviolate.

By the Conſtitution of a Man's Country, I mean that under which he is born: for, though Original Forms ſhould not be altered without a proper Authority, yet it would be too nice an Inquiry for every Man to examine, whether it be at preſent exactly agreeable to its firſt Inſtitution. Time and Accidents may introduce many Changes, (and ſome perhaps inſenſibly) which Cuſtom may eſtabliſh. Theſe, if received by common Conſent, though they never had a formal Sanction, are to be regarded as Parts of a Conſtitution: As other Uſages are, which perhaps at firſt did receive a formal Sanction, but of which the Originals are not to be traced. On the other hand, there are Inſtitutions to be traced, which by common Conſent have been long diſuſed, and which perhaps it would be inconvenient to revive; and theſe are not to be eſteemed as

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Parts of a Conſtitution. On this ſcore, I cannot ſee what the Searchers into the Original of any particular Form of Government can propoſe to themſelves more than to ſatisfy their own Curioſity; ſince any thing they can collect from thence, will be of little Moment to confirm, and of leſs to overturn the Right of the preſent Uſage. It is better for Men to take things as they find them, and to conclude the common Practice and Opinion to be right, than by a laborious and dark Scrutiny into Antiquity to raiſe Doubts to the diſturbing of Mens Minds, and unhinging their preſent Forms of Government.

OF THE
Eſſential Parts of Government.

HAVING mentioned ſomething of the Forms by which Governments are diſtinguiſhed from each other, I ſhall proceed to obſerve ſome of thoſe Properties in which they do all agree. And theſe Properties have relation, either to the Nature of that Power and Authority with which every Government is inveſted by the People; or ſecondly to the Acts, which it hath a Right to perform in conſequence of that Authority.

1. Firſt then, There is a Supreme Authority in every State, whether at its firſt Inſtitution it was veſted in one Perſon or in many.

2. This Supreme Authority cannot bind itſelf. It may lay its Commands on all others, becauſe it is Superior; but not on it ſelf, becauſe it is Supreme. And it is well

well that there is an Authority always in being with this Liberty of Acting; for it would be highly inconvenient that any Human Decrees ſhould be irreverſible; ſince different Neceſſities of the State may require different Reſolutions; and what was judged good at one time, may prove prejudicial at another. Therefore when any Law is declared perpetual, and receives a more ſolemn Sanction than ordinary, it only ſhews the Legiſlators Opinion of its Utility, but adds nothing to its Validity; for the ſame Authority which injoins, may at any time afterwards diſannul.

3. The Supreme Authority is equally Abſolute in every State. For in what does abſolute Authority conſiſt, but in a Right to judge at all times what is neceſſary to be done for the Publick Good, and in a Power to imploy other Mens Perſons and Eſtates in what manner ſhall be thought proper for the obtaining it? This is the moſt abſolute Authority that can be conceived. Yet ſuch an Authority there is in every State; for the publick Good cannot be obtained without it: But the Publick Good was the End for which Men entered into Civil Society; therefore when they appointed particular Perſons to purſue that End, they muſt at the ſame time inveſt them with Power to uſe all neceſſary means for obtaining it. When we ſpeak of Abſolute Government

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in Oppoſition to other Forms, we only mean, that this Power of judging of the Publick Good, and directing the Methods of obtaining it, reſides in a ſingle Perſon, who may act in it as he thinks proper without the Approbation or Interpoſition of any other. This is the true Notion of an Abſolute Government, and not, as is too commonly imagined, a Power in the Prince to do whatever he pleaſes. There never was, nor ever can be any ſuch ſort of Government: for if a Prince is not reſtrained by Human Laws, he is at leaſt confined to act agreeably to the Laws of God and of Nature: for by inſtituting Government, Men did not intend to part with their Natural Rights, but to preſerve them. If any Prince therefore through Humour, Appetite, or Paſſion, attempts to invade them, he acts wickedly, contrary to his Engagements, and the Truſt repoſed in him. And whoever will aſſert ſuch Tyranny or Abuſe of the End of all Government can poſſibly be any eſtabliſhed Form of it, may with equal Juſtice maintain Anarchy it ſelf to be ſo.

4. The Supreme Authority in every State (while it acts within the proper Sphere of Human Juriſdiction) is Unaccountable and Uncontroulable.

It is Unaccountable; becauſe every Member of the Society hath already ſubmitted to it his Judgment and his Will, and conſent-

ſented that all Acts done by ſuch Authority, ſhould be eſteemed his own. Therefore he cannot afterwards queſtion its Determinations, though they ſhould ſeem to him unneceſſary, and even inconvenient: For this would be an unjuſt receeding from his Agreement, a deſtroying his firſt Inſtitution, and erecting a Sovereign Authority in oppoſition to that already eſtabliſhed. When therefore any Government lays before the World the Reaſons of their Conduct, (as it is often their Policy ſo to do) it is not to be conſtrued to proceed from any Right in the Subject to demand it, or from any Obligation in themſelves to do it; but is only to vindicate their Reputation, and to ſatisfy the People of the Juſtice and Honour of their Proceedings.

As the Supreme Authority is Unaccountable, ſo likewiſe is it Uncontroulable. Not but that it may in Fact be controuled; but my meaning is, that none can in Juſtice controul it: For if Men have not a Right to examine and cenſure, much leſs have they to oppoſe its Reſolutions; but they muſt be ſubject not only for Wrath, but even for Conſcience ſake.

Having examined the Nature of Authority in every Government, I proceed to thoſe Acts, which it hath a Right to perform in purſuance of it.

1. There is an Authority in every State to make Laws; it being impoſſible that Government can be exerciſed without them: For Laws are the Words of the Legiſlators declaring their Will unto the People; without ſuch Declaration their Will cannot be known; and if it is not known, it cannot be obeyed. Could we ſuppoſe a State (which I believe is no where to be found) without known poſitive Laws, and ſubject to the abſolute Will and Pleaſure of the Civil Magiſtrate, ſuch a Magiſtate could not with Juſtice puniſh any Action, which is in it ſelf Indifferent, unleſs he had before prohibited it; for though the Society are to be directed by his Will, yet his Will can lay them under no Obligation before it be declared: Breaches of the Law of Nature he might juſtly puniſh, becauſe it is a Law eſtabliſhed by God himſelf from the beginning of the World, and made known to every Man's Conſcience; whatever therefore each Member of the Society might have acted againſt the Offender in a State of Nature, the ſame might ſuch a Magiſtrate (to whom they have delegated their Power) act againſt him in their ſtead.

As Promulgation is eſſential to all Laws in general, ſo all Good Laws ought to be Intelligible, and certain. If they are not un-

underſtood, it is the ſame thing as if they were never publiſhed; and it would be as unreaſonable to expect Obedience to them, or puniſh the Neglect of them. If they are couched in obſcure and dubious Terms, an innocent Perſon, who is willing to perform his Duty, may miſtake it; or if he acts agreeably to the Intention of the Laws, a Latitude is left to the Interpreters of them to miſconſtrue them, and to bring his Innocence in queſtion.

It is alſo highly Convenient that all Laws be written in the Vulgar Tongue, and in the common and uſual Characters: For ſince they are the Rules of Action to all the Members of the Society, and all are under an equal Obligation to Obedience, the Acceſs to the knowledge of them ought to be eaſy and open to All. Otherwiſe the generality muſt depend on the Information of others; who either through Ignorance or Intereſt may miſguide them, and who will expect to be rewarded for their Advice. So that a Man muſt be at conſtant expence to know his Duty, and may often ſuffer for the Faults of other Men.

Laws ſhould likewiſe be as few as poſſible in Matters which Nature hath left common and indifferent: For moſt Men are ſo taken up with the common Concerns of Life, that they have little leiſure to inform themſelves of Laws, nor can they burden their Memo-

ry with them: But they judge of Actions by the natural Notions of Right and Wrong, imagining nothing unlawful, which is not prohibited by the Law of Nature; therefore to multiply Laws in other Caſes, is but to multiply Offences.

Theſe are ſome general Qualities requiſite in human Laws: the proper Objects of them are the Poſſeſſions, Actions, and Opinions of Men.

1. There is an Authority in every State by Law to aſcertain the Property of the Subjects. For it has a right to apply all Means neceſſary to the preſervation of Peace; but it is impoſſible that Peace ſhould continue in a Society, unleſs the Rules of Property are fixed. If the Law did not diſtinguiſh what was each Man's Right, if there were no preſcribed Forms of conveying Poſſeſſions from one to another, or if there was no certain Deſignation of Perſons to ſucceed to the deceaſed, there would be endleſs Matter of Contention; every one would ſtrive to ſeize what he liked beſt, and the Weak would become a Prey to the Stronger. But when every Man knows what by Law he may call his Own, he enjoys it with Satisfaction and Security, and is encouraged to improve it for his Own and the Publick Advantage.

Although the Rules of Property have always been different in different States, yet none of them can be called Unjuſt: for by Nature no Man can claim a right to any thing in particular, but all things are common to all Men; and though it was found convenient to ſettle diſtinct Properties, yet they owe their Original to Compact and Law; and therefore it is reaſonable that the Legiſlators in each State, ſhould limit them in ſuch manner as they judge moſt conducive to the Publick Good.

There are ſome Caſes of Neceſſity in which the Laws of Property are ſuperſeded, and a Man's Natural Right to all things is revived. As if a Man without any Fault of his own ſhould be in ſuch extreme Want, that he muſt ſtarve if he do not ſupply himſelf from other Men's Store, in ſuch a Caſe, it is allowable for him to carve for himſelf; for Providence deſigned the Product of the Earth for the Support of Mankind in general, and not that it ſhould be ingroſſed by any to the Deſtruction of the reſt; and when Men conſented to diſtinct Properties, and that they would not touch another Man's Goods, it was with this tacit Reſerve, if they could ſecure their own Preſervation without it. Children have alſo a Natural Right to be maintained out of the Subſtance of their Parents, whilſt they are unable to ſupport themſelves; but after

that time their Right ceaſes; if it did not, the Laws of thoſe Countries would be unjuſt that give Parents a Power to diſpoſe of their Eſtates from their Children, or that make an unequal Diſtribution among them after the Parent's deceaſe.

2. There is an Authority in every State to direct the Actions of the Subject. For in the firſt Eſtabliſhment of the Civil Authority, every Man did (at leaſt tacitly) promiſe to aſſiſt thoſe whom he inveſted with it, to promote what they ſhould judge for the Publick Good; which muſt be done by paying Obedience to their Directions: And by virtue of this Agreement, Governours have a Right to exact it of them. If Men in a Civil State were left to act as they pleaſe, they would be ſubject to the ſame Inconveniencies as in a State of Nature, and the End of their joining in Society would be intirely fruſtrated.

But although Men are to ſubject their Actions to Civil Authority, it is to be underſtood with this Limitation, that it command nothing which the Laws of God or Nature prohibit, and prohibit nothing which they command; for in thoſe Caſes, we muſt ſerve God rather than Man. But this is rarely or never to be apprehended; for what Governours can be ſuch Monſters as to act in open defiance of the King of Kings, and in ſubverſion of the End of Go-

Government, which was to inforce thoſe Laws, that have ſo direct a tendency to the Good and Happineſs of Mankind? When Civil Authority commands or prohibits any thing that is commanded or prohibited by the Laws of God or Nature, it adds not to the Obligation of Obedience, (which was as great as poſſible before) but by giving a Temporal Sanction to the Law, it ſubjects the Criminal to human Puniſhment, who muſt otherwiſe have been left only the Object of Divine Juſtice at the Great Tribunal. When Civil Authority commands or prohibits any thing in its own Nature indifferent, it not only creates the Puniſhment, but the Obligation; for as ſoon as it is commanded or prohibited, it ceaſes to be indifferent, and Men ought to be obedient: if they are not, they ſin; becauſe they violate their Original Agreement on which the Society ſubſiſts. And if we examine nicely, we ſhall find all Breaches of human Laws, even in Matters indifferent, to be indirectly, and by conſequence, Offences againſt the Law of God, which commands Obedience to Magiſtrates; as alſo againſt the Law of Nature, which injoins us to obſerve our Contracts; but yet it muſt be allowed, that Offences in Matters of themſelves indifferent, are not ſo heinous, as in thoſe which are originally the Objects of Divine or Natural Laws.

Laws. If the Civil Authority commands a thing, of which a Man doubts whether it be morally Evil, yet I think (but with Submiſſion I ſpeak it) he ought to obey: for he ſhould have ſo much Deference to the Wiſdom of his Governours, as to believe they have a clearer Conception of it than himſelf; and to their Honour, as that if they thought it wrong, they would not command it. And this Caſe, where a Man acts by Order of a Superiour, is very different from that where the Action is to proceed from his own free Motion; for there, if he doubts, he ought to forbear acting. When the Civil Authority commands a thing which a Man only thinks Inconvenient or Prejudicial to the State, he is, without doubt, nevertheleſs obliged to pay Obedience: for he ought not to ſet up his private Judgment in oppoſition to thoſe in Authority, who are intruſted to judge for the Publick; but ought againſt his Opinion to follow their Directions, to whoſe Will he hath already agreed to ſubmit his Actions.

3. Every State has Authority and Right to inform the Opinions of their Subjects. For Men are guided in their Actions by their Opinions; and if they think amiſs, they will act ſo; Error may be ſucceeded by Sedition, and falſe Imaginations by real Diſorders. It therefore nearly concerns every Government to inculcate ſuch Opinions as have

have an immediate tendency to Peace; and to endeavour as much as poſſible to make the People entertain the ſame Opinions; for from Unanimity proceeds Union, and from Union Strength: whereas when Men differ in Principles, they will naturally divide into Factions, to the manifeſt weakening and disjointing the Body Politick.

It is indeed impoſſible to make all Men think alike, or force an Opinion upon any Man; for every one muſt judge for himſelf, and cannot believe things to be otherwiſe than as they appear to his Apprehenſion: but yet the Law may preſcribe the Means he ſhall uſe for his Information, and may juſtly puniſh him if he does not apply them; for no Man can fairly refuſe to hear what Reaſons may be urged againſt his Opinion; ſince upon Examination things may appear to him in a different light from what they did at firſt View: or if he is not convinced, yet he has done his Duty in following the Rules preſcribed by his Governours for his Conviction. The Impreſſions Men receive when Children, are not eaſily defaced: Let Governours therefore provide good Laws concerning Education, that their Subjects may receive an early Tincture of Virtue and Morality, and eſpecially of Religion; for Religion, as it propoſes future Rewards and Puniſhments, will always have a powerful Influence on Mens Actions:

Actions: What therefore is more worthy of the Care of the Civil Authority, than to unite Men as much as may be in their Opinions about it? leſt that, which was intended to promote Peace and Charity, give occaſion to the greateſt Animoſity and Diſſenſion; for no Diſputes can riſe ſo high as thoſe on a Subject, which Men believe of the greateſt Importance. The moſt probable way to bring them to an Agreement, is, to appoint the Perſons who ſhall be intruſted to inſtruct them, to ſettle the principal Points of Doctrine to be profeſſed, and the particular Form of Worſhip to be obſerved, and to beſtow all Honours and Rewards on the ſtedfaſt Adherers to it. Let theſe be intitled to all Favour and Encouragement from the State; but at the ſame time let others be treated with Candour and Humanity. If a Man ſeriouſly diſſent from a Doctrine which has the Sanction of Authority, he ought to enjoy his Opinion without Moleſtation, provided he enjoy it in private: While it continues locked up in his own Breaſt, he is accountable to none for it, but him to whom all all Hearts are open; and while he demeans himſelf as a peaceful Member of the State, he ought to be put to no Teſt about it; for to endeavour to ſearch a Man's Heart, is invading the Prerogative of God: But if he offers to perſuade or force others into

into his Opinion, he juſtly incurs the Penalty of the Law for acting in contempt of Human Authority: or if the Law excuſes him, I ſhould think his own Conſcience would not; I am ſure he cannot eſcape the Cenſure of the World, or avoid the Imputation of being a Man either Proud, Singular, or Vain. For when he ſees the reſt of Mankind in a different Sentiment, and amongſt them great numbers of Perſons in all reſpects of as much or more Reaſon than himſelf, ought he not, inſtead of attempting to impoſe his Opinion on others, to doubt of it himſelf? and to have the Modeſty and Humility to think, that he is as likely to be miſtaken as they? If a Man aſſents to the Doctrines eſtabliſhed, I ſee not with what Reaſon he can diſſent from the eſtabliſhed Form of Worſhip: for Forms and Ceremonies are not of the Eſſence of Religion, but are in their own Nature indifferent, and are ſupperadded only to preſerve an outward Decency and Dignity in it, being nothing more than the Stamp by which one National Church is diſtinguiſhed from another. Therefore a Man may with a ſafe Conſcience obſerve his own Form at Home, and in another Country the Form preſcribed there; nay, this he ought to do, though he have an Opportunity of uſing his own; for where-

ever a Man is, he owes Obedience to the Civil Authority.

But here I expect it will be objected, Are we then to give an implicit Faith to all eſtabliſhed Opinions? Is Authority to ſhut the Door again Truth? May we not make uſe of our Reaſon to diſcover it? And when we have diſcovered it, may we not declare it to the World, and reſcue the World from Error? It muſt be allowed, that no Man is obliged to believe as his Governours do, but every Man is obliged to act as they direct: If therefore they would have any Opinion paſs current and undiſputed, it is not only preſumptuous but unlawful to oppoſe it. Beſides, let a Man conſider, that the concealing his Thoughts on a receiv'd Opinion, can be of no ill Conſequence to the State, but his publiſhing of them may. It may breed doubt and perplexity in weak Heads, and difference and diſſenſion in warm ones. For let a Point be never ſo trivial, yet if it is thought material, it will not want zealous Partizans both to maintain and oppoſe it. And as Diſputes of this nature are carried on with as little Charity as Temper, from diſputing they will paſs to reviling and hatred; and when neither Party will allow the other to be the Wiſer, each will endeavour to make the other appear to be the Wickeder. I think there-

therefore in Points purely Speculative, and which can have no ill Influence on Morality or Government, it is better for the People to continue in Ignorance or Error, than purchaſe their Knowledge at ſo dear a Rate.

I confeſs there is a Caſe, in which it is not only excuſable, but a Man's Duty to ſpeak his opinion, even in Oppoſition to Authority. And that is, when Iniquity is eſtabliſhed by a Law, and Men are treading the Paths which lead to Deſtruction. Here you have the Example of the Apoſtles and Primitive Chriſtians for your Warrant, who boldly maintain'd their Doctrine, when the Kings of the Earth took Counſel together againſt the Lord and againſt his Anointed. Without this Liberty, Chriſtianity could not have been then introduced, or any worthy Reformation have been ſince effected. But then let all Reformers bring with them the ſame patient Reſignation to Authority, the ſame firm Reſolution to undergo the ſevereſt Penalties of the Law to compaſs their good Deſigns: for this is the moſt undoubted Mark of their Sincerity; and the cleareſt Demonſtration that they believe the Doctrine they teach, when they are ready to ſeal it with their Blood. If, on the contrary, a Perſon endeavours to raiſe a Party to defend him in the Profeſſion of his new Opinions; if, inſtead of applying to Mens Reaſon, he

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ſtudies to introduce them by Force, it is a ſtrong Preſumption, that he is acted more by Vanity or Ambition than a charitable Diſpoſition to the reſt of Mankind.

2. There is an Authority in every State of Puniſhing and Rewarding: the firſt as a Terror to Vice, the laſt as an Encouragement to Virtue. If there was no Puniſhment, the Law would be a dead Letter to which few would pay any regard: For it is not the Injunction, but the Sanction, which has an Influence on the generality of Men; whoſe Obedience is more owing to their Fear than to their Conſcience. So that if they do not attempt on other Mens Reputations, Fortunes, or Perſons, it is from the Danger of ſuffering in their Own: Which the Laws of all Nations have moſt juſtly provided that they ſhould. As Puniſhments affect each of theſe reſpectively, they are either Ignominious, Pecuniary, or Corporal.

Ignominious Puniſhments alone, are but in few Caſes a ſufficient Guard againſt ill Actions; for the Apprehenſions of Shame are not ſo ſtrong a reſtraint as the Fear of Loſs or Pain; eſpecially among the Tranſgreſſors of the Law, who are Perſons generally loſt to the Senſe of it. Where Pecuniary Puniſhments are ſufficient for an Offence, they are preferable to Corporal, becauſe they at once inrich the State, and leſſen

leſſen the Ability of doing ill in the Offender. If Crimes are not the moſt heinous, Corporal Puniſhments, which extend not to Life, are more eligible than Capital; becauſe by the laſt a Member is taken from the Commonwealth, who by his Labour might continue uſeful, and by wholeſome Correction be at length reformed. For this Reaſon too, I think Confinement is better than Baniſhment, as alſo becauſe it is more irkſome to the Criminal. In ſhort, it muſt be allowed by all, that it is better a Man ſhould be uſefully employed in this World, than ſent unprepared to the next; and that he ſhould be doing good at home, than be a Vagabond in a ſtrange Country, to which he may become a burden, as he has already been a Reproach to his own. Sanguinary Laws ought to be avoided in a State as much as poſſible; for although they ſtrike a greater Terror into the Living, yet they loſe another End of Puniſhment, which is the Amendment of the Offender. It ſeems therefore moſt convenient, that few or no Crimes, which are not eminently ſo in the Account of the Law of Nature, ſhould be made Capital by Civil Laws: Not but that I think the Civil Authority has a Right to make any other Matter ſo, if it be judged very neceſſary for the Advantage of the State: And this is generally agreed; though it has been queſtioned from

whence this Right ariſes: for ſince no Man hath a Power over his own Life, it has been demanded, how he could transfer ſuch a Power to the Magiſtrate? It may be anſwered, That it does not flow from the Gift, but from the Offence of the Party; for if he had never offended, the Magiſtrate could never have had ſuch a Power over him: but upon his Offence, it is moſt juſt and reaſonable, that it ſhould be exerted againſt him: for if in a State of Nature the Party injured might treat the Offender as an Enemy, and proceed againſt him in any manner, even to the taking of his Life, if he judged it neceſſary for his own Security; why may not a Body Politick uſe the ſame Privilege in its own Defence, when a Man breaks through his Civil Engagements? There is as much Reaſon, and I think more; becauſe in a Community, the Offence is not againſt a ſingle Perſon, but againſt all thoſe, who have agreed to live under the ſame ſocial Laws. And this Power of Puniſhing in the State ſuperſedes all private Puniſhment or Revenge, even where the Offence is againſt the Law of Nature; becauſe by entering into Society, Men conſent that the Magiſtrate ſhall in all Caſes act in their ſtead.

It is too Stoical an Opinion to imagine that all Crimes are equal: for Reaſon and Conſcience inform us, that thoſe againſt the Laws of God or Nature, are of a deeper

deeper dye than thoſe againſt human Laws only: Again, that of each Kind the Degrees are different according to their different Objects. It is therefore the Wiſdom of every Government to proportion, as near as may be, the Penalty to the Offence: for if, on the one hand, the Shame, the Loſs, or the Pain, which attends the Commiſſion of it, is leſs than the Pleaſure or Advantage, it is not to be doubted, but that Men will go on in their Tranſgreſſions: On the contrary, if the Law ordain a Puniſhment enormous and extravagant, natural Equity will inſtruct Men not to put it in execution; ſo by common Conſent it will be laid aſide, and the Crime will paſs unpuniſh'd. Could we ſuppoſe the Judges of the Law to be always knowing, unprejudiced, and incorrupt, the readieſt way to have the Penalty alway proportioned to the Offence, would be for the Law only to define the laſt, and to leave the firſt to their Diſcretion; or elſe, to point out the Species of Puniſhment, and to leave the Quantity of it to be meaſured out by them: But as Human Nature is liable to Ignorance, Partiality, and Corruption, this would be repoſing too great a Confidence in them, unleſs in Offences of the loweſt Rank. It is therefore convenient that the Law ſhould particularize the Puniſhment as well as the Crime: which makes it impoſſible that it ſhould in all

Caſes

Caſes be adequate to it; for Legiſlators can only conſider an Action in Groſs, and as it is moſt likely to happen, and provide a Remedy accordingly: They cannot foreſee the infinite variety of Circumſtances which may attend it, and quite alter the Nature and Complexion of it; ſo that it may frequently happen, that if the Letter of the Law was put in execution, a Man might ſuffer the greateſt Injuſtice. Therefore it is abſolutely neceſſary, that in every State the ſupreme Magiſtrate ſhould have a Power, on conſideration of thoſe Circumſtances, to mitigate or remit the Puniſhment; there is no occaſion for a Power to aggravate it, for the Law generally ordains it ſevere enough: And where it is Capital, it admits of no Aggravation, for Death is the greateſt natural Evil that can be inflicted. It may indeed be rendered more terrible by Torture, but that is ſo ſhocking to Human Nature, that it ought not be permitted in a civilized Nation.

In proportioning of Puniſhment, Magiſtrates ſhould chiefly have regard to the Intention of the Actor, as far as it is diſcoverable; for Intention is the very Soul of Action, on which the whole Morality of it depends: ſo that the moſt heinous Fact when wilfully committed, if committed by Accident or without Deſign, ceaſes to be criminal. For this reaſon Ideots, Lunaticks,

naticks, and Infants, who like Brutes are incapable of directing their Actions by their Understanding, are likewise incapable of Offence, and consequently of Punishment. It should likewise be considered, whether the Offender was ignorant of the Law; for though he is not altogether excusable, because he ought to be better informed, yet he is much less criminal than one, who wilfully transgresses it. In wilful Crimes, the Age, the Fortune, and Quality, both of the Offender and Party injured, the Time, the Place, and the Manner of committing the Fact, are all Circumstances which ought to have their due weight with Magistrates in proportioning the Punishment.

Another essential part of Government is the Power of Rewarding, without which the Publick Good cannot be sufficiently advanced, or the State be put in a flourishing Condition. For although Punishment may restrain Men from evil Actions, it is Reward alone that stirs them up to those that are laudable: the first may keep them Innocent, but it is the last, that makes them useful Members of the Commonwealth. Without a Power of Rewarding, Civil Authority would be very defective; for there are many things conducing to the Publick Good, which Governours cannot command, that they may lead Men to by a Prospect of Advantage: They cannot

command a Man to be a skilful General, Mathematician, or Artiſan, but by propoſing ſuitable Encouragements, they may tempt him to employ his Talents to become ſo; or by rewarding thoſe who are already Eminent, may excite others to emulate their Perfections: for however publick Mens Profeſſions may be, their Views are generally private; and very few promote the Publick Good ſo much from a Senſe of their Civil Obligations, or Benevolence to the reſt of Mankind, as from an Expectation of a Recompence of ſome nature or other to themſelves.

Much of the Reputation of any Government depends on a prudent diſtribution of their Favours: for if they beſtow them on worthleſs or vicious Perſons, they will fall under the Cenſure of either not being competent Judges of Mens Qualifications, or (which is much worſe) of intending to uſe ſuch Inſtruments to carry on ſome unjuſtifiable Deſign. Publick Merit is the Standard, by which not only particular Perſons, but alſo the different Claſſes and Profeſſions of Men are to be eſtimated and rewarded: therefore next to thoſe, who are immediately aſſiſtant to the Sovereign Authority in the Adminiſtration, are to be conſidered ſuch as have been moſt inſtrumental in defending, improving, or inriching their Country. The General,

who by his prudent Conduct has ſaved it, the Soldier who has chearfully expoſed his Life in defence of it, thoſe Lights and Ornaments of it, who by their Learning or Piety have contributed to make others Wiſer or Better, thoſe who have invented or refined Arts and Sciences of Uſe and Convenience to Mankind, ought to have the foremoſt Rank in the Honour and Eſteem of their Country, and in the Favour and Countenance of a Government: Nor is the Husbandman to be forgot, who increaſes the natural Product of his Nation; nor the Merchant, who brings foreign Riches into it: for they are not only the Occaſion that their Fellow-Subjects live in greater Plenty and Affluence, but by increaſing the Wealth of the State, add to its Strength and Security.

To reward thoſe who are eminent in any Way, is the ſure Method to have a conſtant ſucceſſion of Perſons who will be ſo. Where there is a *Mecænas*, a *Virgil* will not be wanting. It ſeems therefore good Policy in a Government, to propoſe annual Rewards to thoſe who ſhall excel in ſuch Arts and Sciences as they deſign principally to encourage and promote: for it would ſet Mens Heads and Hands more earneſtly to work, if they were ſure of a Recompence; eſpecially if it were aſcertain'd by Law, and

not left to the Will and Pleasure of those who bestow it.

Rewards are either Pecuniary or Honorary, that is, they are Additions either to a Man's Fortune or his Reputation. The first have the most Influence on mean and sordid, the last on generous and noble Tempers. In conferring Pecuniary Rewards, let Governours so qualify their Generosity, as not to be over-liberal to some Subjects to the prejudice of the rest; and let those who receive them consider, how much they lose of the Merit of a good Action, when they set a Price upon it, and like common Labourers or Artisans serve for hire. Praise, Honour, and Esteem, are the Consequence and most natural Rewards of glorious Actions, and have always been coveted by the most Deserving: for there is a Vanity in the Soul of Man which courts Applause, and places much of his own Happiness in the good Opinion of others: Nay, which extends his Views beyond the Grave; and makes him wish to be remember'd with Honour by Posterity. Therefore whatever Mark of Distinction preserves the Memory of his Actions, and places his Merit in a fair View, is the most agreeable and flattering Reward; and however trifling in it self, may prove an Incentive to the noblest Atchievements. The Prospect of an Oaken

Crown

Crown has ſaved the Life of many a *Roman* Citizen: and many a *Roman* Citizen has boldly expoſed his Life in Defence of his Country, in hopes of a Statue or Monument of Marble to be erected to his Memory after his Death. If Notions of Honour were duly encouraged, a Diſtinction of Dreſs, of Title, or Precedence, would lead Men as far in the Paths of it, as any Proſpect of Gain; and Place and Authority would have more Charms, than any Profit ariſing from them. How much therefore is it the Intereſt of every State to carry theſe Notions as high in Mens Conceptions as poſſible? ſince they may be made the Inſtruments of ſo much Publick Good; and ſince they open ſo large a Field for Governours to reward the Deſerving according to their Wiſhes, without any Expence to themſelves or the Subject. Governments ought to be moſt frugal of thoſe Honours which are attended with Power and Prerogative; becauſe they may ſome time or other be turned to their Diſadvantage: as alſo of thoſe which are Hereditary; for they may deſcend to a worthleſs Poſterity.

3. There is a Power in every State to make War and Peace. For it little avails, that Affairs be well adminiſtred within its own Limits, if it be not alſo defended from outward Injury and Violence. As every

every Individual was in a Condition of Nature with regard to the reſt of Mankind, before he entered into civil Engagements with them, ſo is every State with reſpect to another before the Intervention of Leagues and Compacts. And therefore ſince the Laws of one can lay no Obligation on the other, if any Injury is threatned or committed, the injured State may uſe Force to defend itſelf, or to obtain Reparation. On this account every Government has a right to arm ſuch a Number of the Subjects as they ſhall judge neceſſary for theſe Occaſions: And it is the Duty of the Subjects to obey their Commands, and not to deſert the Service without their Permiſſion; for the Nature of Society obliges every Man to do his beſt in Defence of it. And no Subject can refuſe to take Arms on Pretence of the Injuſtice of the Cauſe, for he has authoriſed his Governours to judge for him in publick Exigencies; and if the Cauſe be Unjuſt, the Crime muſt be imputed to them. Beſides, ſuch Pretences, if admitted, might leave the State naked and defenceleſs, and often cover the baſeſt Cowardice and Treachery.

An Injury to a private Subject, by the publick Authority of a foreign State, is a juſtifiable Cauſe of War, and ought to be reſented by the whole State of which he is

a Member; for the main End of eſtabliſhing Civil Society was mutual Protection and Defence. But yet let the Cauſe be never ſo juſt, no Prudent Government will draw the Sword without firſt endeavouring to obtain Reparation by Treaty: for if it can be ſo obtained, it would be Madneſs to expoſe their Country to the certain Miſeries, but uncertain Event of a War. If no Reparation can be obtained, a Government will likewiſe conſider, whether the State be in a Condition to ſupport a War, and whether it be a Match for the Enemy; for if they judge it not to be ſo, it is better to bear a ſmall Evil than provoke a greater, and to make off with a ſlight Wound, than venture the receiving one, which may prove Mortal.

When a War is once begun, it may be carried on *in Infinitum* both as to the Manner and the Time: for the Law of Nature permits every thing againſt the Aggreſſor; and ſuch is every Member of the offending State, ſince his Government acts by his Conſent: but yet Men ought to obſerve a Moderation; ſince their Conduct in Victory will be a Rule to be obſerved towards them in their ill Succeſs: And Generoſity requires, when they have obtained Reparation, and ſufficient Caution from the Enemy againſt the like Injuries for the future, to

put

put an End to the Calamities of War by a Safe and Honourable Peace. Which Power of making Peace every State muſt neceſſarily be inveſted with, as a Conſequence of their Right of making War.

4. There is a Power in every State (which is likewiſe conſequential of its Right of making War) of contracting Alliances with foreign States, to ſtrengthen it ſelf againſt a too powerful Enemy: for as a ſingle Perſon, when threaten'd or attack'd by one that is ſtronger, muſt implore the Aſſiſtance of his Neighbours, a Body Politick in parallel Circumſtances muſt act in the ſame manner. They are like to prove the faithfulleſt Allies, whoſe Intereſt it is to defend the State that ſeeks their Protection: and ſuch are thoſe who on its Ruin would be moſt expoſed to the Power of the Conqueror. It is extremely dangerous for a weak State to enter into Alliance with a potent confining Neighbour; for ſuch an Alliance muſt probably end in Slavery: the Confederate State will either conſtrue the Terms of it as he pleaſes to his own Advantage; or elſe, on a pretended Breach of them, will turn his Arms againſt his new Ally, and at laſt ſubdue thoſe whom he engaged to protect.

5. There is a Power in every State to appoint ſubordinate Magiſtrates and Officers.

For

For as it is impoſſible for Governours to be preſent in all Places, and execute all parts of the Political Oeconomy themſelves, it is neceſſary that they nominate others to act by their Orders and Directions. And thoſe, who ſo derive their Authority from them, ought for that reaſon to meet with Deference and Submiſſion from the reſt of the Subjects. But it frequently happens, that the People pay a greater Regard to the Perſons of Magiſtrates than to the Character they bear; and that the eminent Qualities of the firſt, add a Luſtre and Reputation to the laſt. And therefore it highly concerns a State to fill all Offices with Men of ſuitable Qualifications: In the Adminiſtration of Juſtice, they ſhould be knowing, intrepid, impartial, uncorrupt: In conducting of Armies, of Courage and Experience: In managing of Treaties, of Caution and Penetration: In all Caſes, of equal Capacity, unſhaken Fidelity, animated with Zeal for publick Good, and Contemners of private Gain. On ſuch a Choice of Miniſters depends the Welfare of a Nation, and the Glory and Reputation of a Government; for the Good or Bad Actions of Inferiour Magiſtrates will ever reflect Honour or Contempt on thoſe that employ them.

6. Laſtly, There is a Power in every State to levy Taxes on the Subject. For

the Administration of Affairs, relating either to Peace or War, cannot proceed without Expence; and therefore it is just and reasonable that every Subject should contribute his Proportion towards it, since every one receives a Benefit by it. And certainly no reasonable Man will repine to give part of his Fortune for the Security of the rest; nay, sometimes for the Defence of his Country, and Relations, his Life, his Liberty, and Religion. But since Rulers are common Parents, who are to watch in all Cases for the Good of the Subjects, they ought not only to be careful of their Persons, but frugal of their Property; to impose no Taxes upon them but what are absolutely necessary; to levy them equally; and to satisfy them that they are applied for their Benefit; for this will make all contribute chearfully towards them. They should also be cautious how they impose any Tax on Mens Industry, for that is impairing the Fund from whence the Riches of the State arise. But sumptuary Taxes are most equitable; since they not only serve to restrain Luxury, but fall on those who may well afford to contribute largely to the Publick, when they can throw away so much on their own Vanity and Folly. If any Persons merit an Exemption from Taxes, they are those who enjoyed the same Privilege among the *Romans*; I

mean

mean the Fathers of many Children; for they have already been Benefactors to their Country, in furniſhing their Quota to its defence, and are at conſtant expence in cloathing and maintaining them.

Theſe are the ſeveral Parts of Sovereignty which are eſſential to every Form of Government, and which have ſuch a Natural Connexion with each other, that no State can poſſibly ſubſiſt without them. Any one of them without the reſt is defective; as will appear by conſidering the End of Government, which is to eſtabliſh Peace, Order, and Security. Now, how can theſe be obtained, unleſs there is an Authority to which all Men muſt pay Submiſſion? and unleſs this Authority has a Power by Laws to ſettle Mens Rights, to direct their Actions, and (ſince their Actions flow from their Will, and their Will from their Opinions) to inform their Opinions? And to what purpoſe is a Power of making Laws, without a Power to engage Men to the Obſervance of them, by the Fear of Puniſhment, or Hope of Reward? And though theſe Powers jointly are ſufficient to ſecure Subjects againſt one another; yet they are of no Effect againſt a foreign State without a Power of uniting and arming the Subjects; or if it be a ſtronger Enemy, without the Power of

treating a Peace with him, or Alliances with other foreign States to oppoſe him. And ſince Governours cannot execute the Affairs of War and Peace alone, it is neceſſary that they ſhould have a Power to appoint ſubordinate Magiſtrates. And ſince publick Buſineſs cannot be managed without Expence, they muſt alſo have a Power to compel the Subjects to contribute what is neceſſary.

But though there muſt always be theſe ſeveral Powers in a State, yet it is not neceſſary that they ſhould be all veſted in the ſame Perſon, for Experience evinces the contrary: And it has been the Practice of the wiſeſt Nations to divide them, eſteeming it as the beſt Security of their Liberty, to have one part of the Supreme Authority a Cheque upon the other. And it is to be obſerved, that the Parts of Sovereignty fall properly enough of their own nature into a Diviſion: for ſome of them are of conſtant Uſe and Application; others are only to be exerciſed when the Neceſſities of the State require. For Example, there is not always occaſion to make New Laws; for the Old ones may ſuffice for the good regulation of the State: ſo there is not occaſion always to raiſe Money on the Subject; for either the Publick Service may not require it, or ſufficient may be raiſed at once to anſwer it for a conſiderable Time: Therefore the Powers concerned in this

Part

Part of the Sovereignty, may be ſuſpended for ſome Time, and revived again as Occaſion requires. But there is daily, nay hourly Occaſion to execute the Laws in being, and to appoint Perſons to be aſſiſtant in the Execution of them: As alſo to watch the Motions, and reſiſt the Attempts of foreign States, which are often ſudden and unexpected: and therefore there muſt always be Powers in Being, and actually diſcharging theſe Parts of the Sovereignty. It muſt be confeſs'd, that where the Parts of Sovereignty are divided, a State cannot always act with the ſame Vigour and Steadineſs, as where they are united in one Perſon, for want of the ſame Unanimity; and that if any one of the Powers attempt to encroach upon another, this may divide the People, and end in Civil Diſſenſion. But theſe poſſible Inconveniencies are amply recompenced by great and certain Advantages.

I cannot diſmiſs my Subject without adding a Remark of Sir *William Temple*; *viz*, 'That Opinion is the true Ground and 'Foundation of all Government, and that 'which ſubjects Power to Authority: for 'Power ariſing from Strength, is always in 'thoſe that are governed, who are many; 'but Authority ariſing from Opinion, is in 'thoſe that govern, who are few.' How neceſſary is it therefore for every Government

to

to maintain a good Reputation with the People, and to eſtabliſh its Dominion in their Hearts? Now, the ſame Qualities, which acquire Love and Eſteem to a private Perſon, will produce the ſame Effect with relation to a Government. If the People are once convinced of their Rulers Wiſdom to direct them, of their Valour to protect them, of their Piety to derive Favours from Heaven upon them, and that all their Views are aimed at the publick Advantage, they cannot fail having a due Veneration for their Characters and Perſons, and yielding a ready Obedience to their Commands. From ſuch a Credit with the People, a Government will receive a firmer Stability, than from any Excellence in the Frame of its Conſtitution; and will be better guarded by their Affections, than by the Strength of Armies. And from this Conſideration too, it is natural to reflect, how ill thoſe Perſons deſerve of any Government, who for baſe Ends endeavour to weaken its Authority in blaſting its Reputation with the People, by groundleſs Calumny and Defamation.

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